IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 6899 of 2005

M/S.SHARDA FILMS DISTRIBUTORS,
V/S
SMT.KESAR KANWAR & ANR.

Mr. SG OJHA, for the appellant / petitioner

Mr. ALKESH AGRAWAL for Mr. RR NAGORI, for the respondent

Date of Order : 24.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By the impugned order, the learned trial Court has declined the prayer of the petitioner for reconsidering the order dated 18.7.2005.

Vide order dated 18.7.2005, the written-statement filed by the petitioner was ordered to be taken on record subject to the petitioner paying a cost of Rs.3000/-, and it was also directed that if the costs are not paid, the written-statement shall be kept in D-Part. Thereafter, on 29.9.2005, application was filed for reconsideration of that order, that application has been dismissed by the impugned order dated 29.9.2005. As the things stand, the order dated 29.9.2005 does not require any interference whatever, inasmuch as, as is clear from the order dated 18.7.2005, that the petitioner was served long back, and

the case was going on for the petitioner's written-statement since 1992. This is a glaring example, where the provisions of Order 8 Rule 1 have been blown to winds, recklessly, and notwithstanding that, when the learned trial Court allowed the written-statement to be taken on record subject to payment of a paltry amount of cost; even that was not paid.

However, in view of the fact, that vide order dated 2.12.2005, further proceeding had been stayed by the interim order of this Court, the trial could not proceed further. Considering this circumstance, I am inclined to give one more opportunity to the petitioner, by directing, that if now the petitioner pays an additional cost of Rs.10,000/- alongwith the cost originally imposed, on or before the next date of hearing, already fixed in the trial Court, the written-statement shall be taken on record, and the trial may proceed. It is made clear that if the petitioner fails to pay this cost, the writ petition will stand dismissed without reference to the Court, and the impugned order shall revive. The learned trial Court is also directed to expeditiously decide the main suit, as it has already remained pending for long.

The writ petition is, accordingly, disposed of.

(N P GUPTA),J.

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